
VIRGINIA COAL MINE SAFETY BOARD

Department of Mines, Minerals, and Energy
Wednesday – October 10, 2007 - 9:00 A.M.

MINUTES

VIRGINIA COAL MINE SAFETY BOARD

MEMBERS PRESENT:

Frank Linkous
Richard Waddell
Billy Powers
Foster Tankersley
David Berry
Patti Church
Roy Jessee
Ernest Benko
William Kiser
Max Kennedy, Jr.

MEMBERS ABSENT:

None

OTHERS PRESENT:

Benny Wampler, Department of Mines, Minerals & Energy (DMME) Deputy Director
Sharon Pigeon, Assistant Attorney General
Mary Gibson, Regulatory Boards Administrator
David Asbury, Division of Mines (DM) Emergency Coordinator Manager
Mike Willis, DM Mine Safety Engineer
Carroll Green, DM Inspector Supervisor
Patty Varner, DM Administrative Program Specialist
Sam Church

Meeting Called To Order

Chairman Foster Tankersley called the meeting to order. A roll call of members determined that there was a quorum present. Mr. Tankersley observed that all members were present and thanked them for attending.

Chairman Tankersley called for a motion to dispense with the reading of minutes from the previous meeting on May 1, 2007; a motion was made, seconded with unanimous vote taken to approve the minutes.

New Business – Resolutions from the Board

Chairman Tankersley called for Patti Church to read two resolutions by the Board made upon her recommendation recognizing DMME Deputy Director Benny Wampler for significant contributions to the implementation of the Federal Surface Mining Control and Reclamation Act, and posthumously recognizing Dink Shackelford for contributions to the Virginia coal mining industry and for his community service. Motion was made, seconded and voted unanimously to accept the resolutions. Benny Wampler thanked the Board and emphasized that it is the good work of the DMME staff that has resulted in the award that he has received.

New Business – Status of Virginia Mine Safety Performance

Frank Linkous called for Mike Willis to give a brief overview of the current status of the safety performance in Virginia and an overview of some of the key work activities of the Department. Charts illustrating comparisons over years 1990 - 2006 of coal production and employment figures; the frequency rate of all reportable coal mine injuries – Virginia (3.4) vs. nation (4.21); coal mining fatalities – nation vs. Virginia with Virginia fatality frequency rates in comparison to the nation being at the zero level for the last three years; and serious personal injury rates illustrating a continuous decline in our numbers of injuries resulting in 24 hours hospital confinement. Another noteworthy statistic is the decline in the number of unintentional roof falls in Virginia mines. The annual average number for the last ten years was 200. There has been a marked decrease to 90 for year 2006 and a projection of 80 for 2007. Even though coal production has decreased by 20%, roof falls have decreased by 200%.

A chart illustrating field inspector activity for numbers of violations and closures issued showed a frequency increase projected for 2007. Also, any violations of the Virginia Mine Safety Act that constitute felonies and misdemeanors committed at mines will result in actions as follows: willful violations of these mine safety laws will result in automatic suspension of the miner's certifications; re-instatement is subject to Board of Coal Mining Examiners (BCME) review and appeal, and information may be furnished to Commonwealth Attorney for possible prosecution.

Key accomplishments noted include:

- October 23, 2004, occurrence of last coal mining fatality.
- Implemented Substance Abuse laws.
- Developed compliance options for mine operators in Virginia regarding Section 4 of the MINER Act of 2006.
- Joint Emergency Response Plans with MSHA being pursued.
- Expanded DM Emergency Response team to include representatives from other DMME Divisions.
- Impoundment Emergency Response Plans revised and expanded to coordinate with counties and Virginia Department of Emergency Management.
- Special high wall safety talks regarding equipment positioning and limiting exposure conducted with all surface mining operations.

Comment from the Board was that industry is pleased that DMME and MSHA jointly seeking one consistent, consolidated emergency response plan. Mr. Linkous stated that the timeline for putting it into operation is the first of next year.

Mr. Linkous reviewed activities related to implementation of the substance abuse law:

- A summary and statistics of actions taken due to non-compliance including BCME hearing were outlined.
- Networks established with drug screening and assessment and treatment providers.
- Corroboration with local and regional law enforcement.
- Meetings with physicians and medical providers to give DMME's perspective in prescription use by the working coal miner in regard to issues of non-compliance with Virginia's substance abuse laws.
- Petition to Attorney General's office to request \$100,000 from the oxycontin settlement award to Virginia which would be used for additional training of DMME personnel and for public awareness activities with one half of the amount for addressing substance abuse treatment for indigent miners.

Mr. Linkous stated that DMME did not underestimate the magnitude of the issues encountered with the implementation of the substance abuse law and assured the Board that DMME is handling issues and problems encountered head-on and proactively. DMME is considering, internally, further rulemaking on substance abuse to address some issues to bring uniformity to procedures we are using.

There was discussion on how the Board can aid in ensuring receipt of the monies requested from the settlement award. Suggestions were for members and/or their respective organizations and companies to contact the Attorney General's Office with recommendations and show of support. A motion was made, seconded and voted upon unanimously for the Board to draft a resolution in support of the monetary request to the Attorney General's Office with suggestion for copying the resolution to legislators. A motion was made, seconded and voted upon unanimously to increase the amount petitioned for to \$200,000.

David Asbury presented an update on activities related to Section 4 of the Mine Improvement and New Emergency Response (MINER) Act of 2006. David gave a brief overview of key points of the Mine Safety and Health Administration (MSHA) proposed rules of September 26, 2007, regarding mine rescue teams. MSHA has scheduled public hearings across the nation; there are 22 comment sections for industry and state governments. The proposed rules include:

- Separation of mine types: Anthracite and Bituminous plus Bituminous is expanded to define Large and Small Mines Categories. Large Mines are those that employ 37 or more miners while Small Mines are defined as those that employ 36 or fewer miners.
- Operators to designate two teams that are available from a mine rescue station with a one-hour ground travel time to each covered mine. Large Mine operators must designate the first team as a "mine-site" or "composite team" plus a second team.
- Revisions and additions to team training requirements for certification by MSHA and "at the mine" training, Part 49 and Section 1500, 1501, etc.

DMME has prepared compliance options and a proposal to assist our mining community that includes:

- 3 new State sponsored teams strategically located
- 1 mine rescue coordinator / trainer at each station
- 2 mine rescue teams for each station

The advantages for state-sponsored mine rescue teams were highlighted and the preliminary economic analysis for the cost of compliance was outlined for three separate options.

Funding options for the mine rescue teams are:

- Committed required funding from Coal Employment Enhancement Tax Credit
- A per ton rescue (severance) tax for underground operators
- A direct user fee for each mine operator receiving services
- A surcharge for coal fired utility customers to support mine rescue

The Department is currently focusing on the option that would include one state team and one composite team at each of the three strategically located stations. DMME has significant concerns for our state's unique coal mining operations, especially the small independent business owners. The Department has taken on the task to develop compliance options, but there has to be clear industry support and a resolution by industry, the coal counties, and state government to adequately fund any option. Division of Mines representatives have planned meetings with county representatives, Boards of Supervisors and others for support of funding options that will be dedicated to mine rescue coverage and Section 4 MINER Act compliance.

Carroll Green reported on a grant DM applied for and received from MSHA in the amount of \$85,000 from monies established through the Brookwood-Sago Mine Safety Grant. DM will utilize the grant monies to develop and implement a Mine Emergency First Responder certification training program which will include training and certifying a minimum of one person per shift for each underground mine. The miners participating in this program will receive specialized training on assisting miners and mine officials in first response procedures and reacting to mine emergencies including but not limited to explosions, fires, firefighting, inundations, entrapments, etc. The program will enhance the overall capability of miners to make and execute critical decisions during the first response to a mine emergency situation. This program could be utilized for mine emergency training on a national level even if not implemented as a certification program in other states. When completed, DM will make the program available to all underground trainers.

Frank Linkous urged support from the Board for DM's mine emergency capability through any approach deemed effective. He complimented the Board for their good work and support.

Chairman Tankersley extended his appreciation for the full attendance of the Board for the meeting.

❖ **Next Meeting: To be announced at a later date.**

Adjournment

Upon a motion made and seconded, the meeting was adjourned.

Respectfully submitted,

Patty Varner
Patty Varner
Secretary